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JAY S. CINNAMON, ESQ.
ABELMAN, FRAYNE & SCHWAB
150 EAST 42ND STREET
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of
OLIN-NUNEZ et al.
Application No. 10/601,167
Filed: June 20, 2003
Attorney Docket No. 206,160

: DECISION GRANTING
: PETITION
:
:

This is a decision on the petition filed September 5, 2003, requesting that the above-identified application be accorded a filing date of June 20, 2003.

On June 20, 2003, applicants filed the above-identified application. However, on August 28, 2003, the Office of Initial Patent Examination mailed a "Notice Of Incomplete Application," requiring, inter alia, drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on June 20, 2003, describes drawings containing Figures 1-12; however, it appears the United States Patent and Trademark Office (Office) did not receive any drawings on filing.

In response, applicants filed, inter alia, the present petition, and authorized payment of the petition fee. Applicants assert that the present application contains at least one process or method claim, and thus, is an application for which a drawing is not necessary for an understanding of the invention under the provisions of 35 U.S.C. 113.

As stated in MPEP § 601.01(f), it is the practice of the Office to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

MPEP § 601.01(f) also states that:

A nonprovisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description and the names of all the inventors.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g).

MPEP § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the requirement for drawings as set forth in the "Notice of Incomplete Application" mailed August 28, 2003, was sent in error and is hereby withdrawn. The application will be accorded a filing date of June 20, 2003. Accordingly, the petition is granted.

No petition fee is necessary. **The application will be granted a filing date of June 20, 2003, with "0" sheets of drawings.**

Any inquiries related to this decision should be directed to the undersigned at (703) 306-5589.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions